

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUSAN MAE POLK,
Petitioner,

v.

KIMBERLY HUGHES, Warden,
Respondent.

Case No. C [12-5986 VC \(PR\)](#)

**ORDER DENYING MOTION FOR
STAY AND DIRECTING HUGHES
TO RESPOND TO
ALLEGATIONS REGARDING
LACK OF ACCESS TO LEGAL
MATERIALS**

Document no. 107

Petitioner Susan Mae Polk, a state prisoner incarcerated at the California Institute for Women, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 asserting numerous claims for relief. On July 14, 2014, Polk filed a Motion for Stay and Order for Hughes to Provide Access to Courts. Polk seeks this stay based on allegations that she is being denied access to her legal materials and writing implements. For instance, she states: (1) on June 19, 2014, correctional officers seized her legal files, transcripts, notes and research and refused to return more than one cubic foot to her; (2) since the week of June 8 to June 14, 2014, prison officials have curtailed her access to the law library; and (3) prison officials recently curtailed her access to writing supplies.

Polk filed this case on November 26, 2012, almost two years ago. During this time, many documents have been filed, but Hughes' motion to dismiss has not yet been fully briefed nor decided. The Court will not stay this case and prolong ruling on the motion to dismiss and the merits of Polk's habeas claims. Therefore, the motion for a stay is DENIED.

However, the Court is concerned that, if Polk's allegations of lack of access to legal materials, law library and writing supplies are true, she may be impeded from properly responding

1 to Hughes' motion to dismiss.¹ Therefore, Hughes is directed to file a declaration, within two
2 weeks from the date of this Order, responding to these allegations. If any of Polk's allegations are
3 found to be true, Hughes must indicate how the situation will be remedied.

4 Based on the foregoing, the Court orders as follows:

5 1. Polk's motion for a stay is denied. Doc. no. 107.

6 2. Within two weeks from the date of this Order, Hughes shall respond to Polk's allegations
7 regarding lack of access to legal materials, law library and writing supplies.

8 **IT IS SO ORDERED.**

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10 Dated: September 4, 2014



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12 VINCE CHHABRIA
United States District Judge

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28 ¹ Polk's opposition to Hughes' motion to dismiss is due two months after it was served on Polk. Polk indicates that she was served with the motion on July 28, 2014. Therefore, her opposition is due on September 28, 2014.